

Exhibit D - Citizen witness Jonathan Pierce's deposition

JONATHAN JODIE PIERCE

April 26, 2018

1 STATE OF ARIZONA)
2 COUNTY OF COCONINO) ss. REPORTER'S CERTIFICATE

3

4 I, MICHELLE K. SEYMOUR, RPR, CSR, CCR, do
5 hereby certify that I am an Arizona Certified
6 Reporter, Certificate No. 50710; that previous to
7 the commencement of the examination, the witness was
8 duly sworn by me to testify to the truth.

9 I further certify that this deposition was
10 taken in shorthand by me at the time and place
11 herein set forth, and was thereafter reduced to
12 typewritten form, and that the foregoing 84 pages
13 constitutes a true and accurate transcript, all done
14 to the best of my skill and ability.

15 I further certify that I am not related to,
16 employed by, nor of counsel for any of the parties
17 herein, nor otherwise interested in the result of
18 the within action.

19 DATED at Flagstaff, Arizona, this 3rd day
20 of May, 2018.

21

Michelle K. Seymour

22 Michelle K. Seymour, RPR, CCR, CSR
23 Arizona Certified Reporter
24 Certificate No. 50710
25

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

ESTATE OF TASHI S. FARMER a/k/a)
TASHII FARMER a/k/a TASHII)
BROWN, by and through its)
Special Administrator, Elia Del)
Carmen Solano-Patricio; TAMARA)
BAY LEE KUUMEALI'MAKAMAE FARMER)
DUARTE, a minor, individually)
and as Successor-in-Interest,)
by and through her legal)
guardian, Stevandra Lk Kuanoni;)
ELIAS BAY KAIMIPONO DUARTE, a)
minor, individually and as)
Successor-in-Interest, by and)
through his legal guardian,)
Stevandra Lk Kuanoni,)
Plaintiffs,)
vs.) No. 2:17-cv-01946-
LAS VEGAS METROPOLITAN POLICE) JCM-PAL
DEPARTMENT, a political)
subdivision of the State of)
Nevada; OFFICER KENNETH LOPERA,)
individually and in his)
Official Capacity; and)
Does 1 through 50, inclusive,)
Defendants.)

DEPOSITION OF JONATHAN JODIE PIERCE

April 26, 2018

Flagstaff, Arizona

By: Michelle K. Seymour, RPR, CSR, CCR
Arizona Certified Reporter #50710

Job: 26055

JONATHAN JODIE PIERCE

April 26, 2018

			Page 2	Page 4
1	INDEX TO EXAMINATION			
2				
3	WITNESS:	PAGE:		
4	JONATHAN JODIE PIERCE			
5	Examination by Mr. Sayre	4	1	JONATHAN JODIE PIERCE,
6	Examination by Mr. McNutt	31	2	called as a witness herein, having first been duly
7	Further Examination by Mr. Anderson	71	3	sworn, was examined and testified as follows:
8	Further Examination by Mr. Sayre	74	4	*****
9			5	EXAMINATION
10			6	2:03 p.m.
11			7	*****
12	INDEX TO EXHIBITS		8	BY MR. SAYRE:
13	NUMBER:	DESCRIPTION:	9	Q. Good afternoon. Mr. Pierce, again, thank
14	Exhibit 1	Arrest Report	10	you very much for coming down on short notice for
15	Exhibit 2	Voluntary Statement	11	the deposition. My name is Fred Sayre. And I've
16		*****	12	introduced myself previously over the phone on one
17			13	occasion, or two occasions, and then here in person.
18			14	I represent the children, two children of Tashi
19			15	Farmer Brown. Sometimes each name is used,
20			16	sometimes both together. And we are -- I am
21			17	prosecuting a lawsuit against the Metropolitan
22			18	Police Department of Las Vegas and Officer Lopera.
23			19	Okay?
24			20	And, Mr. McNutt might want to introduce
25			21	himself.
			22	MR. MCNUTT: I represent Officer Ken
			23	Lopera.
			24	MR. SAYRE: And then, Craig Anderson,
			25	would you please introduced yourself.
				Page 5
1	Pursuant to Notice and Rules of Civil		1	MR. ANDERSON: Craig Anderson, on
2	Procedure, the deposition of JONATHAN JODIE PIERCE,		2	behalf of Las Vegas Metropolitan Police Department,
3	called by Plaintiffs, was taken on Thursday,		3	Officers Crumrine, Flores and Tran.
4	April 26, 2018, commencing at 2:03 p.m., at		4	BY MR. SAYRE:
5	Performance Reporters, 201 East Birch Avenue,		5	Q. Now, you've been sworn to tell the truth by
6	Suite 9, Flagstaff, Arizona, before MICHELLE K.		6	the court reporter, and she is authorized by the
7	SEYMORE, RPR, CSR, an Arizona CCR, Certificate		7	court to administer that oath. And although we're
8	No. 50710.		8	sitting here somewhat informally in this conference
9			9	room, do you understand that it is both as binding
10	APPEARANCES:		10	on you here as we were in a courtroom of law?
11	Federico C. Sayre, Esq.		11	A. Yes, I do.
12	ABIR COHEN TREYZON SALO, LLP		12	Q. Everything that is said here today will be
13	2600 Michelson Drive, Suite 1700		13	taken down by the court reporter, and in a couple of
14	Irvine, California 92612		14	weeks she'll have it typed up into a booklet form
15	(949) 852-3570		15	and it will be sent to you for your review. And at
16	Appearing on behalf of Plaintiffs		16	that time, as you review it, if you wish, you can
17			17	either change or correct anything that you said here
18	Daniel R. McNutt, Esq.		18	today, if you wish.
19	MCNUTT LAW FIRM, P.C.		19	A. Okay.
20	625 South Eighth Street		20	Q. You don't have to, but you are given that
21	Las Vegas, Nevada 89101		21	opportunity to do that.
22	(702) 384-1117		22	Do you understand?
23	Appearing on behalf of Defendant		23	A. I understand.
24	Officer Kenneth Lopera		24	Q. After you've reviewed it, there will be a
25			25	place where you sign under penalty of perjury that

JONATHAN JODIE PIERCE

April 26, 2018

<p>1 what is in the booklet is true and correct. Okay?</p> <p>2 A. Okay.</p> <p>3 Q. And then there will be a stamped envelope,</p> <p>4 and you just put it in there and send it back, I</p> <p>5 guess to me, it will have my address.</p> <p>6 A. Sounds good.</p> <p>7 Q. Now, if you don't understand a question</p> <p>8 that I ask you, or anyone else asks you, please</p> <p>9 don't answer it. Ask me to repeat it or rephrase</p> <p>10 it, or some other way to indicate that it was not</p> <p>11 understood.</p> <p>12 A. Okay.</p> <p>13 Q. And I'll do my best to repeat it or</p> <p>14 rephrase it or do something to make it</p> <p>15 understandable.</p> <p>16 A. Yeah, I can do that.</p> <p>17 Q. Please wait until I finish my question</p> <p>18 before you start your answer. And I'll give you the</p> <p>19 same courtesy; I'll wait until you finish your</p> <p>20 answer before I start the next question. Besides it</p> <p>21 being courteous, it's difficult for the court</p> <p>22 reporter to take down two people who are speaking at</p> <p>23 the same time.</p> <p>24 Do you understand?</p> <p>25 A. I understand.</p>	Page 6	<p>1 Q. Have you taken any kind of medication or</p> <p>2 anything that would cause you to have inability to</p> <p>3 recollect or to state your best responses here</p> <p>4 today?</p> <p>5 A. No, I have not.</p> <p>6 Q. I told you about the idea of an estimate.</p> <p>7 While estimates are fine, and welcome, guesses are</p> <p>8 not. And if it is a guess, then you should not do</p> <p>9 so. It's not always clear what the difference is</p> <p>10 between a guess and an estimate, but to use an</p> <p>11 example:</p> <p>12 You can see the length of this table. You</p> <p>13 may not have an exact ability, by your eyes, to</p> <p>14 measure the exact length of the table, but you could</p> <p>15 probably give a reasonable estimate of the length of</p> <p>16 the table. However, if I asked you to estimate the</p> <p>17 length of my dining room table in Irvine,</p> <p>18 California, it would have to be a pure guess because</p> <p>19 you have never been there.</p> <p>20 Do you understand that?</p> <p>21 A. Yes, I understand.</p> <p>22 Q. All right. Mr. Pierce, would you please</p> <p>23 state your full name for the record.</p> <p>24 A. My full name is Jonathan Jodie Pierce.</p> <p>25 Q. Are you currently employed?</p>	Page 8
<p>1 Q. Okay. I don't expect this to be a very</p> <p>2 lengthy deposition, but if at any time you wish to</p> <p>3 take a break, just indicate that you want to take a</p> <p>4 break and your request will be honored. There's</p> <p>5 water and coffee, and there's a bathroom close by.</p> <p>6 Do you understand that?</p> <p>7 A. I understand that.</p> <p>8 Q. During the course of the deposition, I may</p> <p>9 ask you questions that have to do with distance or</p> <p>10 dates or time, and you may or may not have an exact</p> <p>11 answer to my question but you may have a reasonable</p> <p>12 estimate. If you don't have an exact answer, that's</p> <p>13 fine. I would just like to have your best estimate.</p> <p>14 Do you understand that?</p> <p>15 A. I understand.</p> <p>16 Q. And just as you've been doing very nicely</p> <p>17 up till now, please continue to answer out loud.</p> <p>18 Such common expressions as uh-huh or huh-uh are too</p> <p>19 difficult to interpret. Similarly, nods of the head</p> <p>20 either as attempting to show affirmation or shakes</p> <p>21 of the head suggesting no aren't always able to be</p> <p>22 interpreted. So, again, if you would, just please</p> <p>23 continue to answer out loud as you've been doing</p> <p>24 nicely up till now. Will you do that, please?</p> <p>25 A. Yes, I can do that.</p>	Page 7	<p>1 A. No.</p> <p>2 Q. What are you doing right now in terms of --</p> <p>3 are you studying?</p> <p>4 A. I'm studying. I'm at university.</p> <p>5 Q. Is that Northern Arizona University?</p> <p>6 A. It is.</p> <p>7 Q. And what are you studying, please?</p> <p>8 A. Forestry.</p> <p>9 Q. Now, at the time of this incident, which</p> <p>10 was in July of 2015, I believe -- maybe I have it</p> <p>11 wrong. No. I'm sorry. Different case. It was in</p> <p>12 May of 2016. '17. Sorry. You indicated you were</p> <p>13 working for the Forestry Service at that time?</p> <p>14 A. Yes. And I will be returning to that same</p> <p>15 job the Monday school is out.</p> <p>16 Q. Okay. So you'll be working this summer for</p> <p>17 the Forestry Service?</p> <p>18 A. Yes. I've already signed aboard. I'm not</p> <p>19 working yet.</p> <p>20 Q. How long have you worked for the Forestry</p> <p>21 Service?</p> <p>22 A. Last summer was my first season. So I</p> <p>23 continued that until November, starting in May.</p> <p>24 Q. And what do you do for the Forestry</p> <p>25 Service?</p>	Page 9

JONATHAN JODIE PIERCE

April 26, 2018

	Page 10		Page 12
1	A. I'm a Forestry technician.	1	A. I came with a friend from Flagstaff.
2	Q. What does that do?	2	Q. And at the time of the events in question,
3	A. So, my title is Timber Sales Preparation.	3	your friend, I take it, was with you?
4	So, we prepare land and timber to be sold to a	4	A. Yes.
5	private contractor.	5	Q. What is her name?
6	Q. How far along are you in your college	6	A. Joann Rodriguez.
7	education?	7	Q. And does she live in Flagstaff?
8	A. I will be finishing my junior semester next	8	A. She currently does, yes, live in Flagstaff.
9	month.	9	Q. It sounds like she may be moving or she
10	Q. And does that mean you'd have one more	10	just moved to Flagstaff?
11	year?	11	A. No, she lived -- she came here for school.
12	A. Correct. And I am on track to graduate.	12	So she lives here now, and she lived here at the
13	Q. And then you will be full-time Forest	13	time of this case.
14	Service?	14	Q. So, did you come to Las Vegas as a kind of
15	A. Not immediately.	15	just a diversion, something to do for fun?
16	Q. What are you intending to do?	16	A. Joann's parents live in Las Vegas, so we
17	A. I'm intending to hike the Pacific Crest	17	were visiting them. And they just happened to live
18	Trail, upon graduation, because it's a good	18	close to the strip.
19	interlude between university and a career.	19	Q. Okay. So you had already seen her parents,
20	Q. I got it. So, but you are ultimately	20	I guess, before this events in question occurred?
21	planning to be in the Forestry Service, I take it?	21	A. Correct. We were staying with them.
22	A. It's between the Forestry Service and	22	Q. Did they like you?
23	further education.	23	A. Yeah, they liked me okay. They're very
24	Q. Okay. You might go to graduate school, for	24	nice.
25	example?	25	Q. Okay. So, at a certain time of night you
	Page 11		Page 13
1	A. In California, yes.	1	drove near the Venetian and you saw something going
2	Q. Do you have an intended field, possible?	2	on?
3	A. Forestry.	3	A. Correct.
4	Q. Same thing?	4	Q. So, tell me -- I've got a statement by you
5	A. Same thing.	5	that you prepared for the police. And there's also
6	Q. What's a good school in California for	6	some wording in the arrest record that refers to a
7	Forestry?	7	statement that you made.
8	A. Cal Poly Slo or Humboldt. But probably	8	Why don't we look at the arrest record
9	Slo. It's closer to --	9	first. Take a look at page 2 of 8.
10	Q. Slo is San Luis Obispo?	10	A. 2 of 8, yes.
11	A. Yes.	11	Q. At the top of the page, the first paragraph
12	Q. Thank you.	12	says:
13	Let me take you back in time to June of	13	"During the walkthrough, which was started
14	2000- -- May of 2017. You were, on that evening,	14	at the point when he exited the hotel, Officer
15	located in Las Vegas, Nevada; correct?	15	Lopera stated he had observed a security officer and
16	A. Correct.	16	asked if the officer if he had seen anyone running.
17	Q. And when did you get to Las Vegas, before	17	The security officer pointed to the south and
18	that evening?	18	Officer Lopera observed Farmer running south in the
19	A. I'm not sure. I would have to give an	19	middle of the street. Farmer approached a white
20	estimate. But it had been a few days.	20	truck that was traveling west."
21	Q. And as I understand it, had you come from	21	Now, do I understand correctly that that
22	Flagstaff to Las Vegas?	22	was your truck?
23	A. Correct.	23	A. I own a white truck. I don't know if I was
24	Q. And did you come with a friend, or you met	24	traveling west. But yes, that was me.
25	a friend there?	25	Q. Then, it says:

JONATHAN JODIE PIERCE

April 26, 2018

<p style="text-align: right;">Page 14</p> <p>1 "Farmer attempted to open the tailgate of 2 the truck and Officer Lopera believed that Farmer 3 was going to attempt to take the vehicle by force. 4 Officer Lopera deployed and discharged the ECD" -- 5 that's a Taser -- "resulting in Farmer falling to 6 the ground. The walkthrough was then stopped as 7 advised by LVPPA attorney John Aldrich."</p> <p>8 That's the attorney for the Police 9 Department in that situation.</p> <p>10 Now, as I understand from your statement, 11 you never saw Mr. Farmer attempt to get in your 12 vehicle?</p> <p>13 A. That is correct. I never felt like he was 14 trying to open the tailgate, that's for sure.</p> <p>15 Q. You never felt he was trying to open the 16 door of your vehicle?</p> <p>17 A. Correct.</p> <p>18 Q. So the statement that he was attempting to 19 open the tailgate of the truck is incorrect?</p> <p>20 A. In my opinion, yes, that would have been 21 incorrect.</p> <p>22 Q. Next paragraph:</p> <p>23 "After viewing surveillance footage from 24 the Venetian Hotel, detectives were able to retrieve 25 the numbers and letters of the license plate for the</p>	<p style="text-align: right;">Page 16</p> <p>1 Officer Lopera and Farmer moved away from blank's 2 truck and began to drive away."</p> <p>3 Is that essentially accurate?</p> <p>4 A. Yes.</p> <p>5 Q. Now, the next paragraph says:</p> <p>6 "As blank drove away, he continued to watch 7 Officer Lopera and Farmer in his mirror. Farmer was 8 on the ground and Officer Lopera 'mounted' Farmer 9 and aggressively" --</p> <p>10 I think that means struck. It says 11 "stuck" --</p> <p>12 -- "struck Farmer in the face. Prior to 13 pulling into the garage, blank saw that an officer 14 had Farmer in a rear naked choke. Blank was unsure 15 if Officer Lopera was the officer who was applying 16 the rear naked choke but he believed it was. Blank 17 stated Farmer did not attempt to open the tailgate 18 of his truck or get into the truck bed. Blank also 19 stated Farmer did not attempt to open his driver's 20 door, however blank said Farmer's erratic behavior 21 made him nervous so he locked the doors prior to 22 observing Farmer being tased by Officer Lopera."</p> <p>23 Is that correct?</p> <p>24 A. That is.</p> <p>25 MR. MCNUTT: Object to the form.</p>
<p style="text-align: right;">Page 15</p> <p>1 white truck which Farmer approached. An interview 2 was conducted with the registered owner of the 3 vehicle. The following is a summary of the 4 interview and is not verbatim."</p> <p>5 It blanks out your name, I think -- "was 6 stopped in traffic as he approached the parking 7 garage to the Venetian. His friend who was in the 8 passenger seat and drew attention to an officer 9 running alongside (sic) his truck on the rear 10 passenger side. Then noticed a black male, Farmer, 11 near the rear driver's side of his truck who blank 12 believed Officer Lopera was chasing."</p> <p>13 Now, is that you that they're referring to 14 in that paragraph?</p> <p>15 A. The driver, yes.</p> <p>16 Q. Okay. And then the friend is your friend, 17 Joann Rodriguez, who was in the passenger's seat?</p> <p>18 A. Correct.</p> <p>19 Q. Then it says:</p> <p>20 "Officer Lopera told Farmer to 'Stop' and 21 'I'm going to tase you.' Blank saw Officer Lopera 22 tase Farmer, who fell near the rear tire of blank's 23 truck. Blank saw and heard Officer Lopera tase 24 Farmer several times. During this time, Farmer was 25 not complying and appeared to be trying to get away.</p>	<p style="text-align: right;">Page 17</p> <p>1 There may come a time when I make an 2 objection. Just let me make it for the record and 3 then you're free to answer.</p> <p>4 THE WITNESS: Okay.</p> <p>5 BY MR. SAYRE:</p> <p>6 Q. Now, if I understand the sequence, you 7 actually saw the officer -- you didn't know his 8 name, I suppose, at that time -- tasing Mr. Farmer, 9 correct? That was the first thing you saw 10 happening?</p> <p>11 A. First I saw the officer chasing Mr. -- 12 yeah.</p> <p>13 Q. Right. Fair enough. And then the first 14 time there was an interaction, you saw the officer 15 tasing Mr. Farmer?</p> <p>16 A. Correct.</p> <p>17 Q. Did you note how many times that he tased 18 him? Were you able to determine that?</p> <p>19 MR. MCNUTT: Objection. Form.</p> <p>20 THE WITNESS: At the time, maybe. Now 21 I would give you an estimate.</p> <p>22 BY MR. SAYRE:</p> <p>23 Q. What is your estimate now?</p> <p>24 A. It would be between five and seven.</p> <p>25 Q. How did you develop that estimate, if you</p>

JONATHAN JODIE PIERCE

April 26, 2018

<p>1 know it now and you didn't know it at the time?</p> <p>2 Let me say a better question.</p> <p>3 Have you looked at the video on YouTube</p> <p>4 that shows Mr. Farmer and Officer Lopera involved?</p> <p>5 A. Yeah, I've seen a few different videos.</p> <p>6 Q. There's a video from the officer's camera.</p> <p>7 A. Only.</p> <p>8 Q. And then there's a second video that's from</p> <p>9 the Venetian's security cameras which show the</p> <p>10 participants further away.</p> <p>11 Have you seen both of those?</p> <p>12 A. I've seen more than one, and I've seen</p> <p>13 videos from the perspective of the officer's body</p> <p>14 camera and the Venetian's security cameras.</p> <p>15 Q. Okay. Your estimate of five to seven, does</p> <p>16 that come from looking at the videos?</p> <p>17 A. No, that comes from hearing the</p> <p>18 discharging, when I was in the truck on the night of</p> <p>19 the event.</p> <p>20 Q. All right. Then you indicate that you saw</p> <p>21 Officer Lopera mount Mr. Farmer and aggressively</p> <p>22 struck Farmer in the face.</p> <p>23 What do you mean by "mount" him?</p> <p>24 A. As I was driving away is when I saw that.</p> <p>25 Mr. Farmer was on the ground. Officer Lopera was on</p>	<p>Page 18</p> <p>1 MR. MCNUTT: Objection. Form.</p> <p>2 THE WITNESS: From my experience, it's</p> <p>3 a very specific chokehold in which one person is</p> <p>4 behind the other and they bring their arm around and</p> <p>5 put the elbow under the chin and have complete</p> <p>6 control of the individual getting choked.</p> <p>7 BY MR. SAYRE:</p> <p>8 Q. Now, how do you know about rear naked</p> <p>9 chokes?</p> <p>10 A. I've been practicing jiu-jitsu for three</p> <p>11 years in June. So, five days a week, very</p> <p>12 regularly. It's something that I see and do five</p> <p>13 days a week.</p> <p>14 Q. Were you trained in applying a rear naked</p> <p>15 choke?</p> <p>16 A. In jiu-jitsu, yes.</p> <p>17 Q. Do you use a rear naked choke in the</p> <p>18 jiu-jitsu sort of combat that is part of, I guess,</p> <p>19 jiu-jitsu performance?</p> <p>20 A. Correct; very regularly.</p> <p>21 Q. And is that -- is it your understanding</p> <p>22 that it is not an air choke, that you don't put</p> <p>23 pressure on the trachea, in front of the neck?</p> <p>24 MR. MCNUTT: Objection. Form.</p> <p>25 Leading.</p>
<p>Page 19</p> <p>1 top of him, holding him down and striking him in the</p> <p>2 face.</p> <p>3 Q. Okay. When you say "on top of him," was</p> <p>4 there some reason you used the word "mount"?</p> <p>5 A. At the time, I believed he would have had</p> <p>6 his leg -- he would have been straddling, for lack</p> <p>7 of a better word, Mr. Farmer.</p> <p>8 Q. Straddling and facing him face to face, or</p> <p>9 straddling him from the rear, or if either?</p> <p>10 A. At that time, I believe more straddling him</p> <p>11 on his side. But I was driving away and looking in</p> <p>12 a mirror, so --</p> <p>13 Q. Now, could you estimate how many times that</p> <p>14 you saw him strike Mr. Farmer in the face?</p> <p>15 MR. MCNUTT: Objection. Form.</p> <p>16 THE WITNESS: No, I believe, at this</p> <p>17 point, I could not do that.</p> <p>18 BY MR. SAYRE:</p> <p>19 Q. Okay. Was it more than once?</p> <p>20 A. Yes.</p> <p>21 Q. Now, you use the word in your interview</p> <p>22 "rear naked choke."</p> <p>23 A. Yes.</p> <p>24 Q. What is a rear naked choke, from your</p> <p>25 experience?</p>	<p>Page 21</p> <p>1 THE WITNESS: If you properly apply</p> <p>2 the choke, it's a blood choke, because the pressure</p> <p>3 is on the arteries.</p> <p>4 BY MR. SAYRE:</p> <p>5 Q. Okay. In your experience, how long does it</p> <p>6 take for a person to go unconscious from the</p> <p>7 application of a rear naked choke?</p> <p>8 A. If it's properly applied, it can be five to</p> <p>9 ten seconds.</p> <p>10 Q. Now, you were looking back towards the</p> <p>11 officer and Mr. Farmer when you saw the chokehold</p> <p>12 applied?</p> <p>13 A. Correct, in my mirror.</p> <p>14 Q. And was it, in your estimation and from</p> <p>15 your experience, in fact, a rear naked choke?</p> <p>16 MR. MCNUTT: Objection. Form.</p> <p>17 THE WITNESS: I believe it was, yes.</p> <p>18 BY MR. SAYRE:</p> <p>19 Q. All right. Now, did you become concerned</p> <p>20 at all as you were watching this choke applied that</p> <p>21 it was being applied too long?</p> <p>22 A. Yes.</p> <p>23 Q. Excessively?</p> <p>24 A. Yes. I remember mentioning to Joann, the</p> <p>25 passenger, that this is too long. I even slowed</p>

JONATHAN JODIE PIERCE

April 26, 2018

<p style="text-align: right;">Page 22</p> <p>1 down and was watching for a while, believing if this 2 choke is "in," or applied correctly, it's far too 3 long.</p> <p>4 Q. And did you stop for a while to observe 5 that, or were you driving as you observed it?</p> <p>6 A. A little bit of both. Stop and go. My 7 passenger, Joann, was very upset, so eventually 8 she -- we left. But yes, I did stop.</p> <p>9 Q. All right. From the time that you first 10 saw the choke around Mr. Farmer's neck, until you 11 left and were no longer able to see what was going 12 on with Mr. Farmer, about what period of time 13 transpired?</p> <p>14 A. The question was, from the time I saw the 15 choke until I left, how long was that?</p> <p>16 Q. Yes, sir.</p> <p>17 A. An estimate would be 30 to 45 seconds.</p> <p>18 Q. And it was your opinion, based upon your 19 knowledge, training and experience in this area, 20 that that was an excessive length of time?</p> <p>21 MR. MCNUTT: Objection. Form.</p> <p>22 THE WITNESS: Far too long, yes.</p> <p>23 BY MR. SAYRE:</p> <p>24 Q. I'm going to then turn to your statement. 25 This statement was taken by an Officer</p>	<p style="text-align: right;">Page 24</p> <p>1 exhibit?</p> <p>2 MR. SAYRE: No, but I will. Thank you 3 for reminding me.</p> <p>4 I'll mark the arrest report as Exhibit 1 5 for identification, and I'll mark this Exhibit 2 for 6 identification.</p> <p>7 (Exhibit Nos. 1 and 2 marked for 8 Identification.)</p> <p>9 BY MR. SAYRE:</p> <p>10 Q. So, looking at 1702. There's a question by 11 Officer Penny:</p> <p>12 "Okay, um, and then while he was, like, you 13 know, towards the back of your truck, did you ever 14 see him try to get into the bed of your truck or -- 15 or a -- anything?</p> <p>16 JP, which would be you, I assume:</p> <p>17 "No, uh, no, I never felt like he tried to 18 get into the bed."</p> <p>19 That is correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Then, on 1704, you stated, at the bottom of 22 the page: "I believe that once he touched him there's 24 no more tasing."</p> <p>25 By that you mean once the officer touched</p>
<p style="text-align: right;">Page 23</p> <p>1 Penny. Did you know his name at the time of the 2 interview?</p> <p>3 A. He gave it to me at the very start of the 4 interview.</p> <p>5 Q. And he had actually spoken to you before 6 this recorded interview; is that true?</p> <p>7 A. I'm not -- I believe he did, so that we 8 could set a time to take an interview, yes.</p> <p>9 Q. Sure. Now, this, was this interview 10 conducted by phone?</p> <p>11 A. Correct. Yes.</p> <p>12 Q. And he told you that it was recorded?</p> <p>13 A. Yes.</p> <p>14 Q. And you told him, if I understand 15 correctly, that you observed the officer, you 16 weren't sure what the name of the officer was, but 17 you observed the officer applying a rear naked 18 choke?</p> <p>19 A. Yes, I told Officer Penny that.</p> <p>20 Q. Basically, what you have told us today is 21 what you told Officer Penny?</p> <p>22 A. Correct.</p> <p>23 Q. Page 1702. If you look at the lower 24 right-hand corner.</p> <p>25 MR. MCNUTT: Did we mark that as an</p>	<p style="text-align: right;">Page 25</p> <p>1 Mr. Farmer?</p> <p>2 A. Correct. Once there was physical contact 3 between the two, outside of the Taser contact.</p> <p>4 Q. Okay. Next page, please, 1705. At the top 5 of the page:</p> <p>6 "BP: Okay. And then you said as you were 7 driving away, um, 'cause you felt it was okay to do 8 so once they were away from your truck, um, you were 9 still watching in your mirror and you saw the 10 officer standing, like, above the -- the subject 11 who -- he was on the ground. And you said you saw 12 the officer start to -- to -- to punch him."</p> <p>13 Is that correct?</p> <p>14 A. Yeah. Correct.</p> <p>15 Q. And you correct him, and you said:</p> <p>16 "He wasn't standing. He was mounted on top 17 of him."</p> <p>18 That's the next answer that follows?</p> <p>19 A. Correct.</p> <p>20 Q. You've already told us what you mean by 21 "mounted." And you said you thought it was a closed 22 fist he was using to strike him. Is that correct?</p> <p>23 A. I believe -- yes.</p> <p>24 Q. Down about two-thirds down, you have an 25 answer: "I think it was closed fist."</p>

JONATHAN JODIE PIERCE

April 26, 2018

		Page 26	Page 28
1	A. Correct.		1 A. Correct.
2	Q. And you said: "I remember thinking it was		2 Q. Down at about 50 percent down the page, BP
3	violent."		3 asks:
4	That's the next answer down.		4 "Okay, so with your experience in -- in,
5	A. I did say that.		5 uh, jiu-jitsu, um, you know different fighting
6	Q. You never saw Mr. Farmer attempting to		6 techniques. You can identify what would be, you
7	strike or kick Officer Lopera?		7 know, a rear naked choke, the effects of it, how
8	A. Correct.		8 long it would take, and, you know, the adverse
9	MR. MCNUTT: Objection. Form.		9 effects of it?"
10	THE WITNESS: Correct.		10 And your answer is:
11	BY MR. SAYRE:		11 "Yeah, but now from the angle -- from the
12	Q. And then, on 1706, right in the middle of		12 distance I was at at this point I couldn't -- I felt
13	the page, BP says:		13 like his elbow was under the chin which is how you
14	"As they're pulling -- pulling up, um,		14 apply that. I felt like it was but at that distance
15	prior to you going into the garage you see what		15 in the mirror, you know, I can't be positive. Um,
16	appears to be three other officers that are standing		16 if that was the case then yeah, I know -- I remember
17	above, um, the subject. And then there's an officer		17 thinking that night this is -- this is -- that is
18	on the ground, uh, doing, uh, rear naked choke."		18 too -- this is too long."
19	And your answer:		19 A. Correct.
20	"Yes, at this point I missed -- yeah, at		20 Q. And you say, the end of the page:
21	this point they are -- the suspect is on his		21 "You can't choke someone that long."
22	probably right side and the officer's also on his		22 A. Correct.
23	side mirroring him, uh, you know, matching him chest		23 Q. Why is that?
24	to back with a choke put in."		24 A. Because they would pass out. And if you
25	That's what you saw at the time?		25 keep choking them, they will die.
		Page 27	Page 29
1	A. Yes.		1 Q. Okay. Please look at 1710. And it's the
2	Q. Do you remember whether he had his legs		2 one that I told you was out of order.
3	around Mr. Farmer's waist, or lower abdomen?		3 A. 16?
4	MR. MCNUTT: Objection. Form.		4 Q. Page 16, correct. It says -- the officer
5	THE WITNESS: I don't remember.		5 asked you:
6	BY MR. SAYRE:		6 "Okay, um, did he ever grab your door
7	Q. Now, down at the bottom of this page, you		7 handle and try to get into your truck?"
8	said, the other three officers, you said: "I think		8 Your answer:
9	two of them probably were, like, knee -- knee to		9 "No, he never grabbed the door handle."
10	belly or, like, knee to suspect."		10 That's correct?
11	What do you mean by that?		11 A. That is correct.
12	A. So, the other officers were gathered around		12 Q. "Okay, and then you said that he never, you
13	Mr. Farmer very closely. And knee to belly is when		13 know, tried to jump into the bed of your truck or
14	someone is on the ground and you are holding them		14 grab or -- or open your truck bed at all?"
15	down with your knee.		15 And your answer was:
16	Q. And then, on the top of the next page, you		16 "Um, no, not that I felt. I feel like I
17	say:		17 would, um, be able to tell that. I mean, nothing's
18	"I think control of the arms."		18 wrong with the tailgate. It opens but, um, I didn't
19	That's a continuation of the answer from		19 feel anyone touch the truck."
20	the previous page.		20 And that was your best recollection at the
21	"Then the whole time it looked like someone		21 time?
22	was, uh, someone was definitely choking him."		22 A. Correct.
23	A. Correct.		23 Q. And this was just a few days within the
24	Q. You didn't know if that was the same		24 incident?
25	officer who had tased him, but you felt like it was?		25 A. Correct.

JONATHAN JODIE PIERCE

April 26, 2018

	Page 30		Page 32
1	Q. And then he asked you:	1	A. I am not sure. The court, I want to say.
2	"Okay, and then, uh, did you see him with	2	I'm not sure.
3	any weapons at all?"	3	Q. For what purpose did you go to Las Vegas?
4	And your answer:	4	A. To provide a witness -- or to provide a
5	"No -- no, I didn't see anything on him."	5	deposition in front of a grand jury.
6	A. Also correct.	6	Q. Before your testimony today, or, excuse me,
7	Q. "Or with anything, no."	7	your deposition today, what did you do to prepare
8	Correct?	8	for today's deposition?
9	A. Correct. No weapons.	9	A. For today's deposition, I did not prepare,
10	Q. Have you and -- may I call her your	10	because I was not aware of the deposition was
11	girlfriend, Joann?	11	happening.
12	A. That would be appropriate.	12	Q. That was the call that Mr. Sayre made to
13	Q. Okay. Have you and she talked about what	13	you?
14	happened? After it happened, did you talk together?	14	A. Yes.
15	A. Yes.	15	Q. But since the time of the accident, how
16	Q. And you discussed your observations and she	16	many times would you say you've watched the videos
17	gave you her observations?	17	online?
18	A. Correct.	18	A. An estimate would be about seven to ten.
19	Q. Do you recall her saying anything different	19	Q. When was the last time you watched the
20	than you thought you saw?	20	video?
21	A. No.	21	A. The last time I watched the video was prior
22	Q. I have nothing further. Thank you. And	22	to going to Las Vegas to appear in front of the
23	these gentlemen will have some questions.	23	Grand Jury. And I believe that was during spring
24	A. Okay.	24	break. So maybe five or six weeks ago.
25	MR. MCNUTT: Craig, do you want to go,	25	Q. Okay. Mr. Sayre, during the discussion
	Page 31		Page 33
1	or do you want me to start?	1	about mailing you the Notice of Deposition and
2	MR. ANDERSON: You can go ahead, Dan.	2	things like that, there was also some comments off
3	I'll go after you.	3	the record. I think he said he mailed you the
4		4	witness statement that we looked at here as Exhibit
5	EXAMINATION	5	2. Is that right?
6	BY MR. MCNUTT:	6	A. Yes.
7	Q. Mr. Pierce, I'm Dan McNutt. I represent	7	Q. Did you read this before today's
8	Officer Lopera. Thanks for coming down here today.	8	deposition?
9	Appreciate your time. I've got a couple of	9	A. I read it when he sent it to me, which was
10	questions. I'll try to be as expeditious as	10	a while ago. I did not read it close to today. But
11	Mr. Sayre.	11	yes, I have read it before.
12	Before we got started today, Mr. Sayre	12	Q. How many times have you spoken to Mr. Sayre
13	handed you your witness fee check and said, I wish	13	or anyone from his office?
14	it could be bigger but this is what the rules	14	A. I've spoken to Mr. Sayre maybe two or three
15	require. Something like that. Do you remember	15	times, trying to set a date in order to do this
16	that?	16	deposition.
17	A. Yes.	17	Q. Did you discuss the testimony he was going
18	Q. And you made the comment that the one you	18	to ask you to give today?
19	got when you went to Las Vegas was much larger than	19	A. No.
20	you expected.	20	Q. Did you discuss any aspect of the -- any of
21	A. Yes.	21	the questions that we discussed today?
22	Q. What check was that?	22	A. No.
23	A. That was the witness fee check and the gas	23	Q. Did you talk to anybody else from
24	to get out there.	24	Mr. Sayre's office, other than him?
25	Q. And who provided that to you?	25	A. Not about the deposition.

JONATHAN JODIE PIERCE

April 26, 2018

	Page 34		Page 36
1	Q. So is that a yes?	1	appear closer or further away?
2	A. I talked to maybe a secretary about getting	2	A. I believe they appear further away than
3	ahold of Mr. Sayre.	3	they are. It says it in the mirror. I'm not sure.
4	Q. Just scheduling?	4	Q. I think the mirrors usually say that
5	A. Yeah. Getting her transferring me to him.	5	objects appear closer than they actually are.
6	Q. Things of that nature?	6	A. Okay.
7	A. Yeah.	7	Q. Things look -- I may have said that
8	Q. Have you been asked to come to trial in	8	incorrectly. Strike that.
9	this matter?	9	Things look -- is it fair to say things
10	A. To come to trial, no. The Grand Jury and	10	look further away in the mirror?
11	this deposition.	11	A. I'm not sure if it's fair to say that. I
12	Q. This deposition is a different case than	12	know they look one way or the other, though, closer
13	the Grand Jury.	13	or further.
14	A. Okay. For this --	14	Q. Do you wear any glasses?
15	Q. Mr. Sayre is not -- same subject matter.	15	A. No.
16	A. Yes, I understand.	16	Q. Ever, I mean.
17	Q. But in this case, Mr. Sayre, let's just	17	A. No, I've never had to have corrective
18	make or anyone from his office asked you to come to	18	anything.
19	trial if this case goes to trial?	19	Q. No contacts?
20	A. I'm not sure.	20	A. No.
21	Q. Meaning would you come to Las Vegas to give	21	Q. You were in Las Vegas visiting Joann's
22	testimony?	22	parents?
23	A. I'm not sure if I've been asked to do that.	23	A. Correct.
24	Q. Okay. Fair enough.	24	Q. It was a recreational trip?
25	So, let's -- during the testimony that you	25	A. Correct.
	Page 35		Page 37
1	gave here earlier, you referenced -- and you held	1	Q. What had you been doing that night, the
2	out your hand, pointing at what I would -- your	2	night of the events that we're discussing, what were
3	driver's side mirror. Is it correct that it's your	3	you doing prior to these events? Where were you
4	driver's side mirror on your Toyota Tacoma pickup	4	coming from? Where were you going to?
5	truck that you witnessed these events, through which	5	A. We were coming from Joann's parent house.
6	you witnessed these events?	6	I remember it. We were waiting for Joann to get
7	A. Correct.	7	ready for about four hours. We were going to a
8	Q. Did you ever look in the windshield	8	piano bar. That's why we were at the Venetian.
9	rearview mirror, or was it strictly out of the	9	Joann took a very long time getting ready, so I was
10	side-view mirror?	10	waiting in her house for her to get ready.
11	A. I'm sure I did glance at it in the moment,	11	Q. And so, did you have anything to drink
12	but the moment was very hectic with what was	12	prior to going out?
13	happening behind me, with what was happening with my	13	A. No. I didn't have anything to drink after
14	passenger, Joann. I primarily watched it in the	14	going out. While out or after or before.
15	driver's side mirror to my left.	15	Q. Is that because -- do you drink at all?
16	Q. Thank you. Do you have -- how long have	16	A. I do drink.
17	you had that truck?	17	Q. But you just weren't drinking that night?
18	A. An estimate, maybe six years, seven years.	18	A. Correct. Joann does not drink, so --
19	Q. So you're pretty familiar with the truck?	19	Q. And you were -- and so this was -- where --
20	A. Familiar with the truck.	20	was the piano bar at the Venetian?
21	Q. How large is that mirror?	21	A. No, it was somewhere else.
22	A. How large is that mirror. An estimate	22	Q. What were you doing at the Venetian?
23	would be six inches wide, five inches, four inches	23	A. The Venetian had free parking at the time.
24	tall.	24	Q. Gotcha. So you were going to park in
25	Q. Okay. Do you know if objects in the mirror	25	self-parking at the Venetian?

JONATHAN JODIE PIERCE

April 26, 2018

	Page 38		Page 40
1	A. Correct.	1	guess, but no.
2	Q. Where was the piano bar?	2	Q. I don't want you to guess, but I want to
3	A. I'm not sure. I don't know.	3	know what you understand in the context of this
4	Q. How many times have you been to Las Vegas?	4	case. What is a lateral -- or may I say -- LVNR?
5	A. An estimate, 15.	5	A. Since what I believe I saw was a rear naked
6	Q. So you're familiar with the town,	6	choke, and that is what we've been talking about,
7	generally?	7	that would be my guess of what that is.
8	A. Yeah. I don't go to the strip every time	8	Q. Do you believe -- I'm sorry.
9	I'm there. In fact, now that I go with Joann, I	9	A. Sorry.
10	rarely go to the strip.	10	Q. No, no, I didn't mean to cut you off.
11	Q. Have you had contact with anybody else	11	A. That would be a complete guess though.
12	in -- not talking about anything related to the	12	Q. Do you believe there is a difference
13	Grand Jury, but have any family members or anybody	13	between a rear naked choke and a lateral vascular
14	else approached you to discuss this case, this case	14	neck restraint?
15	being the civil case that Fred noticed you?	15	A. If someone told me and showed me what that
16	A. My family members?	16	was, I could answer that question.
17	Q. No, no. Any family members from the	17	Q. But that's not the question. So, do you,
18	plaintiff.	18	sitting here today, know if there is a difference
19	A. No.	19	between those two chokeholds?
20	Q. Who have you spoken to about the testimony	20	A. Do I know if there is a difference? No, I
21	you're giving here today?	21	don't, because I don't know what that chokehold is.
22	A. Mr. Sayre. And Joann, obviously, knows I'm	22	Q. Thank you.
23	here.	23	Só, if I remember your testimony correct,
24	Q. Let's talk about your jiu-jitsu. There	24	and from both your prior recorded statement as well
25	is -- is there a belt rating system for proficiency	25	as today, the events, when they first took place,
	Page 39		Page 41
1	in jiu-jitsu?	1	were pretty much right next to your truck. Is that
2	A. Correct.	2	correct?
3	Q. Is it Brazilian jiu-jitsu?	3	A. Initially, yes, very close.
4	A. Correct.	4	Q. So, and then, at some point in here, you
5	Q. What degree or belt are you?	5	mentioned that you started driving away when you
6	A. Purple, out of a white, blue, purple,	6	thought it was safe to do so. Is that right?
7	brown, black, in ascending order.	7	A. Correct.
8	Q. So white being the entry level, black being	8	Q. Did you hear Officer Lopera say anything
9	expert?	9	audibly to Mr. Farmer?
10	A. Yes.	10	A. Throughout the extent of the whole thing?
11	Q. For lack of a better term.	11	Q. Yes. From the beginning, did you hear, you
12	A. Yes.	12	know, anything happen?
13	Q. And you said you're purple?	13	A. Yes. Officer Lopera initially was telling
14	A. Yes.	14	him to stop and was telling him he would tase him.
15	Q. You've been doing it three years, several	15	And then did tase him. And throughout the events,
16	times a week?	16	was saying things to the effect of "Stop" and --
17	A. Yes. At the time of the event, I was a	17	Q. So when Officer Lopera first said to
18	blue belt, if that matters.	18	Mr. Farmer to stop, did Mr. Farmer comply?
19	Q. Fair enough. In Brazilian jiu-jitsu, is	19	A. No.
20	there a chokehold referred to as the lateral	20	Q. At any point -- well, excuse me. When
21	vascular neck restraint?	21	Mr. Farmer said, "Stop, or I'll tase you" --
22	A. No.	22	MR. SAYRE: You mean Lopera. You said
23	Q. Do you know what a lateral vascular neck	23	"Mr. Farmer."
24	restraint is?	24	BY MR. MCNUTT:
25	A. In the context of this case, I would make a	25	Q. Yes. Thank you.

JONATHAN JODIE PIERCE

April 26, 2018

<p>1 When Officer Lopera said, "Stop, or I'll 2 tase you," did Mr. Farmer comply? 3 A. No. 4 Q. At any point, did Mr. Farmer comply with 5 the verbal directions Officer Lopera was giving? 6 A. No, I don't believe so. 7 Q. Was Mr. Farmer resisting Officer Lopera? 8 A. To the extent that he was not letting 9 Officer Lopera hold him down or stopping, yes, he 10 did. 11 Q. At what point -- what was happening between 12 Officer Lopera and Mr. Farmer when you started to 13 drive away? 14 A. I believe at that point Lopera had made 15 physical contact, where his hands were touching him. 16 But I'm not quite clear on that. 17 Q. Can you estimate -- 18 A. I'm not clear. 19 Q. Can you estimate how far away your truck 20 was from Mr. Farmer and Officer Lopera when Officer 21 Lopera went and became in physical contact with 22 Mr. Farmer? 23 A. So, initially, when Officer Lopera tased 24 him, I thought Mr. Farmer had fallen under my truck. 25 Which is why I didn't drive away. When I drove</p>	Page 42	<p>1 girlfriend or talk to your girlfriend; correct? 2 A. Correct. 3 Q. You were driving forward, and when 4 Mr. Farmer and Officer Lopera are in physical 5 contact, you think it starts at 40 feet. And where 6 are you when Officer Lopera puts a chokehold of some 7 sort on Mr. Farmer? 8 A. I understand the question. That would be a 9 guess at this point. It could have started at 40 10 feet, but would have progressively gotten further. 11 That would be a guess though. 12 Q. Have you reviewed anyone else's testimony 13 in this case? 14 A. I don't believe so. I don't know where I 15 would find that. 16 Q. So, as you might have surmised from the 17 questions, there is a difference between a rear 18 naked choke and a lateral vascular neck restraint. 19 Do you understand that, sitting here now? 20 MR. SAYRE: Well, objection as to 21 form. You're telling him that that's so. 22 MR. MCNUTT: I am telling you that. 23 MR. SAYRE: If he can understand your 24 words. 25 THE WITNESS: Someone would have to</p>	Page 44
<p>1 away, they were further away, and I could tell that. 2 And I believe they were -- there was physical 3 contact at that point. And I drove away. Joann was 4 upset, so I was not looking back for a while. When 5 I looked back for the first time after getting away 6 from them, an estimate would be 40 feet. That's an 7 estimate. 8 Q. And so your estimate is that you're 40 feet 9 away, and what is happening between Mr. Farmer and 10 Mr. Lopera at that point? 11 A. At this point, I believe the first time I 12 looked back after driving away, Officer Lopera was 13 striking him. I believe that was my first image 14 upon leaving, after looking back. 15 Q. How far away were you when Officer Lopera 16 applied the chokehold? 17 A. Again, it would be an estimate. And I was 18 looking back, trying to calm her and looking back 19 and trying to calm her, stop-go, stop-go. So that 20 could have started at 40 feet, but then would have 21 progressively gotten further, until out of view. So 22 maybe 40 feet to -- yeah, it would be a guess at 23 this point. I'd have to go back and look. 24 Q. So your attention is going from your left 25 driver's mirror over to trying to calm down your</p>	Page 43	<p>1 show me that choke. There are different names, 2 sure, I get that. But things can be called 3 different names. I don't know what that choke is. 4 MR. MCNUTT: Fair enough. 5 THE WITNESS: So I do not know if 6 there's a difference. 7 BY MR. MCNUTT: 8 Q. I will represent to you that in this case 9 one of the issues is whether the choke that was 10 applied was a lateral vascular neck restraint, which 11 is a neck chokehold, or a rear naked choke. I will 12 represent to you -- and I don't think Mr. Sayre will 13 dispute -- that they are two distinct techniques. 14 A. Okay. 15 MR. SAYRE: Well, I do dispute that. 16 One is -- they are different, but I don't think 17 distinct. They both are blood chokes. They're not 18 distinct. One cuts off 80 to 85 percent of the 19 blood to the brain, the other cuts off a hundred 20 percent of the blood supply to the brain. 21 MR. MCNUTT: But they are distinct. 22 Or different. 23 MR. SAYRE: Different. I would agree 24 they're different. 25 BY MR. MCNUTT:</p>	Page 45

JONATHAN JODIE PIERCE

April 26, 2018

	Page 46		Page 48
1 Q. In any event, with that muddled		1 A. Yeah, and then we looked for parking.	
2 explanation, so you don't have any idea whether the		2 Tried to calm her down.	
3 choke that Officer Lopera employed was a lateral		3 Q. Was that the end -- when you turned into	
4 vascular neck restraint or a rear naked choke.		4 the parking lot, was that the end of the observation	
5 Isn't that right?		5 of these events?	
6 A. Well, let me put it this way: Depending on		6 A. Until an hour or so later, when I came	
7 how similar that choke is to a rear naked choke,		7 back, there was still an ambulance. Or maybe it	
8 maybe I can't tell. But there are a lot of		8 wasn't an ambulance. There was still remnants,	
9 different types of chokes and I could tell you it		9 either medical or police.	
10 wasn't X, Y and Z. So if I knew what that choke		10 Q. Let me ask a better question.	
11 was, I could tell you for sure it was not that		11 The last time you saw Mr. Farmer or	
12 choke, possibly.		12 Mr. Lopera was when you turned, I think you said	
13 Q. What chokes could you tell me that this was		13 right, into self-parking?	
14 not?		14 A. That is correct.	
15 A. Cross-collar choke, a baseball bat choke, a		15 Q. Isn't it true that you locked your doors on	
16 guillotine. Any of these. A D'Arce and Anaconda, a		16 your truck when the events started?	
17 loop choke.		17 A. Correct.	
18 Q. How is it that you're certain the choke		18 Q. Isn't it true you did that out of fear?	
19 that was employed was not any of those chokes?		19 A. Yes. Mr. Farmer was acting very	
20 A. Because this choke involved Officer Lopera		20 erratically. And I lock my doors at the stoplights.	
21 on his back with his arm wrapped around him near his		21 So I definitely wasn't going to take any chances	
22 throat, and I believe his other arm was behind him		22 that time.	
23 holding his hand. So none of those chokes are close		23 Q. When you say he was acting erratically,	
24 to that.		24 what do you mean? Please explain that.	
25 Q. And how would you see Officer Lopera's arms		25 A. He was running from an officer yelling	
	Page 47		Page 49
1 if his back was to you?		1 "Stop, I'm going to tase you," and he was not	
2 A. His back was not to me. They were on their		2 stopping, and was running. So that's what I mean by	
3 side. And I believe their heads were towards me.		3 erratic.	
4 Q. Okay. There were other officers -- well,		4 Q. On the bottom of your voluntary statement,	
5 did you see other officers other than Officer Lopera		5 which we've marked Exhibit 2, in the bottom	
6 come to the scene?		6 right-hand corner, it's page 1696.	
7 A. At the end, yes.		7 A. 96.	
8 Q. And were they actively participating in the		8 Q. Second-to-the-last line, it says:	
9 arrest?		9 "I don't know if he was trying to get in or	
10 A. They were. They were, yes, what I believe		10 what he was -- if he was just running but, um, I	
11 participating actively around him and attempting to		11 locked my door out of I guess fear of the guy trying	
12 to gain control of Mr. Farmer.		12 to come in because of all the excitement."	
13 Q. And they were literally right there at		13 Do you see that?	
14 Mr. Farmer?		14 A. Yes.	
15 A. Yes. They were involved.		15 Q. And do you recall that you were scared at	
16 Q. Who would have a better view of the choke		16 that point about the events?	
17 being employed, you or those officers right there on		17 A. Yeah. There was a lot of commotion.	
18 the scene?		18 Q. So, on the bottom of page 1697, the last	
19 A. Those officers.		19 line says: Back up one.	
20 Q. Where did you -- so you were -- you pulled		20 "And I think I remember three officers	
21 straight, away, once it was clear to do so. Where		21 above the man and then one officer on the ground	
22 did you go at that point?		22 with him."	
23 A. We went straight and then turned right into		23 Those three officers above the man, those	
24 the parking garage.		24 are the ones we just talked about that you saw come	
25 Q. And then once you -- and then you parked?		25 to assist Officer Lopera with the arrest; correct?	

JONATHAN JODIE PIERCE

April 26, 2018

Page 50	Page 52
<p>1 A. Correct. It would depend where we are on 2 the statement. Because initially I believe there 3 was hotel employees involved.</p> <p>4 Q. So why don't you take a minute, let's look 5 at this statement and you tell me whether "I think 6 three officers above the man and one officer on the 7 ground," are those police officers. Or are those 8 hotel security?</p> <p>9 A. Okay. Give me one moment, please.</p> <p>10 Okay. At that point, the sentence you 11 pointed out, those were officers, yes. I assume Las 12 Vegas P.D. I wouldn't be able to tell the 13 difference.</p> <p>14 Q. But the distinction is they are police 15 officers, not hotel security?</p> <p>16 A. Yes. They had the cars, squad cars.</p> <p>17 Q. And then this sentence goes on. The next 18 sentence:</p> <p>19 "And I've been doing jiu-jitsu, like, five 20 days a week for about two years now and it 21 definitely looks like what we call a rear naked 22 choke which, um, if you have it -- so if you have 23 it -- if you have a choke applied properly and 24 you're underneath the chin, it takes about from my 25 experience about two seconds to" -- and you go on.</p>	<p>1 then have to start all over again?</p> <p>2 MR. SAYRE: Incomplete hypothetical.</p> <p>3 Vague and ambiguous. And objection as to form.</p> <p>4 BY MR. MCNUTT:</p> <p>5 Q. Do you understand the question?</p> <p>6 A. I understand the question. And there's a 7 lot of variables with that. So yes and no. You're 8 probably not going to have to start all over again.</p> <p>9 Q. Why not?</p> <p>10 A. There is a lot of variables. Depends on 11 how they've gotten out of, maybe, the application of 12 that. Maybe they've taken your arm off only an inch 13 or two and then they slip off your arm. Your arm is 14 already right in the place.</p> <p>15 Q. You mentioned, in response to Mr. Sayre's 16 questioning, how long did you think the choke was in 17 place. Let me ask -- strike that.</p> <p>18 How long did Officer Lopera have his arms 19 around Mr. Farmer's neck?</p> <p>20 A. An estimation would be anywhere from 30 to 21 45 seconds.</p> <p>22 Q. And was that the total time that you were 23 able to observe it?</p> <p>24 A. Correct. I did drive, I turned right, was 25 not able to see anymore, and I believe it was still</p>
Page 51	Page 53
<p>1 And you said, today, it takes approximately 2 five to ten seconds, in your experience, to choke 3 someone out with a rear naked choke?</p> <p>4 A. Correct.</p> <p>5 Q. What if it's not properly applied, how long 6 would it take?</p> <p>7 A. So, if it's not properly applied, it 8 depends on how it's not properly applied, but it can 9 go anywhere to you cannot choke someone out, to a 10 lot longer, depending on how it's not properly 11 applied.</p> <p>12 Q. If somebody is actively resisting, could it 13 take longer to get the choke?</p> <p>14 A. Not if it's properly applied.</p> <p>15 Q. So if the choke's properly applied, but 16 what I'm saying is if someone is resisting, can that 17 cause a delay in getting the proper application of 18 the choke?</p> <p>19 A. Yes.</p> <p>20 Q. If you lose the proper application of the 21 choke, do you, in effect, have to start all over 22 again?</p> <p>23 So, for example, if you were choking 24 someone with that and they worked free, got more 25 air, got more blood flow, what have you, would you</p>	<p>1 applied.</p> <p>2 Q. Do you know how much pressure, if any, 3 Officer Lopera was applying to Mr. Farmer's neck?</p> <p>4 A. I would have no way to know that.</p> <p>5 Q. So it's possible he could have had his arms 6 around Mr. Farmer's neck and not have applied any 7 compression; isn't that true?</p> <p>8 MR. SAYRE: Objection. Speculation.</p> <p>9 THE WITNESS: From my vantage point, 10 yes, I would have no way to know.</p> <p>11 BY MR. MCNUTT:</p> <p>12 Q. So he could have had a lot of pressure or 13 he could have had no pressure; right?</p> <p>14 A. For as far as I know, yes.</p> <p>15 Q. There has been testimony in this case by 16 the use-of-force expert from Las Vegas Metropolitan 17 Police Department, named Sergeant Bland. Do you 18 know him, by any chance?</p> <p>19 A. Never -- never heard of him.</p> <p>20 Q. He is a third degree Brazilian jiu-jitsu 21 black belt. Is that -- is he better at jiu-jitsu 22 than you?</p> <p>23 A. Yes.</p> <p>24 Q. Does he know more than you?</p> <p>25 A. I would imagine so.</p>

JONATHAN JODIE PIERCE

April 26, 2018

<p>1 Q. Would you defer to his opinion as to what 2 choke was or was not applied? 3 A. Based on third degree black belt, I would. 4 Of course, I'd have to meet him and talk with him. 5 Q. If he said there was no way to tell how 6 much compression was applied, would you agree with 7 that? 8 A. Again, based on the description you've 9 given me, yes. But I do not know him. 10 Q. Look at the bottom of page 1702, please, of 11 Exhibit 2. This is your statement. And see your 12 initials there at the bottom, JP. That's you? 13 A. Yes. 14 Q. "I remember the man not staying, you know, 15 he -- at no point did it seem like he was staying 16 down. He always seemed to be trying to get away." 17 Do you see that? 18 A. Yes. 19 Q. Do you remember that to be the case? 20 A. Yes. 21 Q. And so this is what you were discussing 22 when we earlier talked about Mr. Farmer was actively 23 resisting arrest? 24 A. He was, yes. 25 Q. Anything else you remember about Mr. Farmer</p>	Page 54	<p>1 was switching back from driving forward, as well as 2 to Joann, your girlfriend, who was on your right, 3 and to the rearview mirrors, so you didn't see all 4 the action? 5 MR. SAYRE: Objection. Compound. 6 Complex. Speculation. 7 BY MR. MCNUTT: 8 Q. Do you understand the question? 9 A. I understand the question. Correct. 10 Q. Over on 1706, the first spot where you see 11 your initials: 12 "But again, uh, the -- I have a feeling, 13 like, the whole time this was guy was trying to get 14 away --" 15 Questioner: "Okay." 16 " -- and never really settled down." 17 Does that refresh your recollection about 18 any other active resistance that Mr. Farmer was 19 employing? 20 A. No, not that we haven't already discussed. 21 Q. Okay. Let's go to 1707. So, about 22 two-thirds of the way down the page -- let's see. 23 "BP: Okay, so with your experience in 24 jiu-jitsu, you know different fighting techniques. 25 You can identify what would be, you know, a rear</p>
<p>1 actively resisting? 2 A. No. He was actively resisting arrest, and 3 at no point did I feel like he was complying. 4 Q. On page 1705, do you see your initials? 5 The first time you see your initials, JP. So, the 6 question is -- we'll back up to where the question. 7 "You were still watching in your mirror and 8 you saw the officer standing, like, above the 9 subject who -- he was on the ground. And you said 10 you saw the officer start to -- to -- to punch him." 11 So, and your answer is: 12 "So almost, yeah, we -- as we were driving 13 away I'm switching between them and trying to, um, 14 communicate with my friend. But I look back and the 15 officer was punching him. He wasn't standing. He 16 was mounted on top of him." 17 And you've already explained what "mounted" 18 means; right? 19 A. Correct. 20 Q. Did you ever see Mr. Farmer striking back 21 at the officer? 22 A. No, at no point did I see Mr. Farmer 23 attempting to hurt Officer Lopera. 24 Q. But it's true that you weren't watching the 25 whole time, because, based upon this, your attention</p>	Page 55	<p>1 naked choke, the effects of it, how long it would 2 take, and, you know, the adverse effects of it." 3 Right? Do you see that? 4 A. Yeah, I see that. 5 Q. Did, at any point, any of the officers that 6 questioned you ask you about the questions I asked 7 you about whether you understood what a lateral 8 vascular neck restraint was? 9 A. No, I don't believe so. 10 Q. Your response is: 11 "Yeah, but now from the angle -- from the 12 distance I was at at this point I couldn't -- I felt 13 like his elbow was under the chin which is how you 14 apply that." 15 Do you see that? 16 A. I see. 17 Q. Do you know if you do that, if you have the 18 elbow under the chin for a lateral vascular neck 19 restraint as well? 20 A. I don't know what that choke is. 21 Q. "I felt like it" -- this is back to quoting 22 you. 23 "I felt like it was but at that distance in 24 the mirror, you know, I can't be positive." 25 Do you see that?</p>

JONATHAN JODIE PIERCE

April 26, 2018

Page 58		Page 60
1 A. Yes.		1 A. No, not familiar.
2 Q. So, you, then and now, you acknowledge that		2 Q. What did the concrete barriers look like?
3 from the distance you were at driving away looking		3 A. They would have been the concrete barriers
4 into a side mirror from a Toyota Tacoma, that it's		4 you typically see with road construction, where
5 impossible to tell exactly what kind of choke was on		5 they're wider at the base and then just have maybe
6 Mr. Farmer. Is that right?		6 like an angle going up and thin out.
7 A. Correct.		7 Q. And the purpose of the concrete barrier was
8 Q. It's also impossible to tell how much, if		8 to keep, I guess, your lanes from going over into
9 any, compression Officer Lopera was employing in the		9 the other street. Is that correct?
10 choke?		10 A. Yeah. I believe they're to separate the
11 A. Correct.		11 Venetian traffic, in that kind of porte cochere
12 Q. Did you ever make it to the piano club?		12 area, from the street.
13 A. No. They were closed when we got there.		13 MR. MCNUTT: Craig, I'm going -- you
14 Q. What did you end up doing?		14 want to take a minute?
15 A. We ended up walking around a little bit		15 I'm going to fire up the video, and I would
16 more and then going back home.		16 like to show you the video and ask you just a few
17 Q. Can you describe to me, in your statement		17 more questions. Why don't we go off the record.
18 you had talked about you were pulling into, I think,		18 And if you want to use the restroom or grab a drink.
19 Venetian parking, and you discussed it being a		19 (There was a break taken at 3:06 p.m.
20 security checkpoint. Do you remember that?		20 until 3:10 p.m.)
21 A. Yeah. It was either a valet checkpoint --		21 BY MR. MCNUTT:
22 I don't know if it was a security checkpoint. I		22 Q. We're back on the record.
23 believe there was a stoplight and maybe a valet		23 Mr. Pierce, what I'm going to do is I'm
24 checkpoint.		24 going to start the video that you've seen. This is
25 Q. Okay. Can you describe what that looked		25 going to have a merge. It's called a merged video.
Page 59		Page 61
1 like?		1 That's been produced in this case. So you're going
2 A. Yeah. So, I believe I was pulling in. I		2 to see different viewpoints on the screen. It will
3 think I was the third car in line, maybe. There was		3 become readily apparent what I want you to do.
4 a stop sign to the left, and maybe a bellman valet		4 I want you to -- ultimately, you're going
5 booth to the right. Other than that, there's just a		5 to see from the Venetian's security camera looking
6 lot of lanes and, maybe, cars.		6 back towards the front of your truck. And it takes
7 Q. Were there any speed bumps?		7 maybe a few seconds for the truck to start moving,
8 A. I don't recall.		8 then we can identify it's your truck and I'll just
9 Q. Were there any concrete barriers to keep		9 ask you to identify it's your truck and verify that
10 you from going the right way?		10 we're all looking at the same thing.
11 A. I believe there is a concrete barrier to		11 A. Okay.
12 the left.		12 (Whereupon, Mr. McNutt played a
13 Q. There's concrete barriers to your left?		13 video on his computer.)
14 A. To my left.		14 BY MR. MCNUTT:
15 Q. As you're driving?		15 Q. Is that your truck?
16 A. I believe.		16 A. Yes. And that is how you can tell.
17 Q. So if you were going west, it would have		17 There's a sticker that's still on the truck. Very
18 been on your left side, to the south?		18 distinctive.
19 A. I'm not sure which direction is west in		19 Q. Okay. So, I fast-forwarded it just a
20 this situation. There's a building to my right, and		20 little bit. And now you see on the left-hand side
21 I believe a street to my left. So that is where the		21 of the screen, we at least see vehicles with lights
22 concrete barriers would have been, if they were		22 coming towards us. What I want you to do is
23 there.		23 identify if and when you can identify your truck.
24 Q. Have you ever heard the phrase, a "Jersey		24 That's a white car coming towards us.
25 barrier"?		25 That's not you; correct?

JONATHAN JODIE PIERCE

April 26, 2018

Page 62	Page 64
<p>1 A. That's correct.</p> <p>2 Q. So let me ask you, do you recognize, is</p> <p>3 this the podium that you were talking about that you</p> <p>4 referenced as a bell podium or as a --</p> <p>5 A. This one?</p> <p>6 Q. Yes.</p> <p>7 A. No.</p> <p>8 That's -- I can -- that's most likely my</p> <p>9 truck.</p> <p>10 Now you can tell for sure, because of the</p> <p>11 front license plate.</p> <p>12 Q. Okay. So you're in the right-hand lane.</p> <p>13 There's two lanes. And we see the officer -- well,</p> <p>14 we see people behind. Do you believe that to be Ken</p> <p>15 Lopera -- excuse me -- Officer Lopera and</p> <p>16 Mr. Farmer?</p> <p>17 A. Yes.</p> <p>18 Q. Do you see that, there, at the end of the</p> <p>19 what I call the Jersey barriers, is this the</p> <p>20 concrete barriers that you were discussing earlier?</p> <p>21 A. Yes.</p> <p>22 Q. Do you see on the lines behind your truck</p> <p>23 those reflector that are often in the street, kind</p> <p>24 of speed bumps, reflector bumps?</p> <p>25 A. Uh-huh.</p>	<p>1 point? Can you tell?</p> <p>2 A. No.</p> <p>3 Q. Can you see Officer Lopera in this video?</p> <p>4 A. No.</p> <p>5 Q. Do you -- is the gentleman on the left with</p> <p>6 the white shirt on, do you understand him to be Las</p> <p>7 Vegas Metro or who he is? Hotel security?</p> <p>8 A. I wouldn't know who that individual is.</p> <p>9 Q. Can you identify any of those folks that</p> <p>10 we're looking at right now?</p> <p>11 A. From this angle, no.</p> <p>12 Q. So, I want you to continue to watch the</p> <p>13 action, and I want you to tell me if at any point</p> <p>14 you can see Officer Lopera, or an officer attempt to</p> <p>15 put a chokehold on.</p> <p>16 A. Okay.</p> <p>17 Q. And at this point, I'll note it looks like</p> <p>18 your truck is now past that podium that was right by</p> <p>19 the speed bump. Right?</p> <p>20 A. I agree.</p> <p>21 Q. Any idea how far that is, you're looking in</p> <p>22 your rearview mirror?</p> <p>23 A. No.</p> <p>24 Q. So, again, you tell me when you think you</p> <p>25 see any sort of chokehold.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Will you agree with me that at this point,</p> <p>2 as you're pulling away, Officer Lopera and</p> <p>3 Mr. Farmer are at what would be, if you are</p> <p>4 traveling west -- and I know we haven't established</p> <p>5 definitively that you're traveling west -- that they</p> <p>6 are at the east end of the concrete barriers?</p> <p>7 A. Yes, it would appear so, from this footage.</p> <p>8 Q. Okay. So at this point your truck is</p> <p>9 almost parallel to this little podium, and there's a</p> <p>10 speed bump. Did you see the speed bump that it was</p> <p>11 about go to over?</p> <p>12 A. Yeah, in the footage earlier.</p> <p>13 Q. Do you know -- at this point, can you tell</p> <p>14 from the video what Officer Lopera and Mr. Farmer</p> <p>15 are doing? Do you know if they're -- if he's going</p> <p>16 hands-on, if he's still tasing?</p> <p>17 A. From this point in the video, no.</p> <p>18 Q. Do you know how far away the distance is</p> <p>19 between your truck and the east end of those</p> <p>20 concrete barriers?</p> <p>21 A. No.</p> <p>22 Q. Tell me when you think you see Officer</p> <p>23 Lopera put a chokehold on.</p> <p>24 Okay. I'm going to stop it right here.</p> <p>25 Is there a chokehold on Mr. Farmer at this</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Right there. Not in, but this is -- that</p> <p>2 right there was at the classic beginnings to a rear</p> <p>3 naked -- to a chokehold.</p> <p>4 Q. So at this time your truck is completely</p> <p>5 past the standing podium?</p> <p>6 A. Yes.</p> <p>7 Q. And we don't know if that's a security</p> <p>8 podium or a valet podium? I think you said a bell</p> <p>9 podium?</p> <p>10 A. Yeah. But that's not what I believed to be</p> <p>11 a bell podium. That would have been on this side.</p> <p>12 Q. Okay.</p> <p>13 MR. SAYRE: Before you move. Is there</p> <p>14 any way for you to identify, by number, where that</p> <p>15 is?</p> <p>16 MR. MCNUTT: Yeah, I'm going to -- I</p> <p>17 think we're going to -- let me finish the line of</p> <p>18 questions, because that is a technical piece that</p> <p>19 we're going to have to come back to. But yeah, I</p> <p>20 should be able to. When I rehearsed this, I found a</p> <p>21 timestamp.</p> <p>22 BY MR. MCNUTT:</p> <p>23 Q. So let's get back to that spot.</p> <p>24 So, right here is when -- what do you see</p> <p>25 happening there?</p>

JONATHAN JODIE PIERCE

April 26, 2018

<p>Page 66</p> <p>1 A. I see another person on the back, so I 2 would assume -- I see an officer on the back, I 3 assume to be Mr. Farmer, and they've just pulled him 4 to the ground, in a classic rear naked choke 5 position.</p> <p>6 Q. As you understand it?</p> <p>7 A. As I understand a rear naked choke.</p> <p>8 Q. Now, is your truck anywhere in this screen 9 at this point?</p> <p>10 A. No.</p> <p>11 Q. From your recollection, where would your 12 truck be -- you continued to drive straight and out 13 of view of this camera; correct?</p> <p>14 A. Out of view of that camera, yes.</p> <p>15 Q. Okay. Tell me when the last thing you 16 remember seeing is. Do you remember seeing --</p> <p>17 So we've got two vehicles, one just went 18 behind you. Did that impede your view at some 19 point?</p> <p>20 A. I don't remember a vehicle impeding my 21 view. But from this security footage, which I don't 22 believe I've ever seen this, I would not be able to 23 tell you when my truck left. Looking at this 24 footage, I would not know when I pulled away.</p> <p>25 Q. I'm sorry. What do you mean, when you</p>	<p>Page 68</p> <p>1 Q. Any chokehold now? You're past the speed 2 bump. How far are you past the speed bump?</p> <p>3 A. It looks like both sets of tires have 4 cleared the speed bump.</p> <p>5 Q. How long is your truck?</p> <p>6 A. I don't know.</p> <p>7 Q. 15, 20 feet?</p> <p>8 A. I wouldn't say 20. But, yeah. I don't 9 know.</p> <p>10 Q. So you're at least 20 feet past the podium, 11 and there's no chokehold; right?</p> <p>12 A. Yes.</p> <p>13 Q. Your truck is now completely out of view. 14 There's still no chokehold; correct?</p> <p>15 A. I would say correct, yeah.</p> <p>16 Q. And, now.</p> <p>17 A. Yeah.</p> <p>18 Q. Right. And we'll get the time hack for 19 what part of the video that is.</p> <p>20 A. Yeah.</p> <p>21 Q. So, from this, do you think it's safe to 22 say, based on my representation of that measurement, 23 that you're at least beyond 31 yards, the first time 24 you see any sort of choke maneuver go?</p> <p>25 A. If 31 yards is the distance from here to</p>
<p>Page 67</p> <p>1 pulled away? We saw your truck.</p> <p>2 A. When I went out of view.</p> <p>3 Q. Okay. Gotcha.</p> <p>4 A. On the night of.</p> <p>5 Q. So if we -- is it fair to say that we would 6 know how far you were away because we could measure 7 from where the officers are at the east end of the 8 concrete barriers and measure up to where this 9 podium is? Correct?</p> <p>10 A. Yeah, I would hope so.</p> <p>11 Q. So that's 93 feet.</p> <p>12 A. Okay.</p> <p>13 Q. That's 31 yards. So that's where your 14 truck was at the first point.</p> <p>15 So let's back it up.</p> <p>16 So here's your truck before, and there's no 17 chokehold. This is before this speed bump. See 18 that? Before this little podium. See that?</p> <p>19 A. (Nods head.)</p> <p>20 Q. Now. No chokehold. No chokehold. Watch 21 your truck. Tell me when you go over the speed 22 bump.</p> <p>23 A. There it was.</p> <p>24 Q. So, any chokehold?</p> <p>25 A. No.</p>	<p>Page 69</p> <p>1 here, then yes.</p> <p>2 Q. It's a long way?</p> <p>3 A. Yeah. Yeah, relative.</p> <p>4 Q. Right. Long away to view things in your 5 rearview mirror; right?</p> <p>6 A. Yes, I could tell a choking going on, but 7 yes.</p> <p>8 Q. But you don't know what kind of choke; 9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Thank you.</p> <p>12 So, Fred, I figured out the time hack. So 13 let me get it there and so that we can get the 14 appropriate timestamp.</p> <p>15 So tell me when your rear tires are over 16 the speed bump.</p> <p>17 A. That was -- is that the rear? Yeah. I 18 didn't see the front go.</p> <p>19 Q. So, 1 minute 13 seconds on the merged 20 video, Mr. Pierce's rear tires cross the speed bump 21 passing the security podium. And is there any choke 22 being applied at this point?</p> <p>23 A. No.</p> <p>24 Q. Your truck continues to drive west. At 1 25 minute 19 seconds, your truck is completely out of</p>

JONATHAN JODIE PIERCE

April 26, 2018

Page 70	Page 72
1 view, having driven further west, past the security 2 podium; right? 3 A. Correct. 4 Q. Is there any -- any choke at all being 5 applied at this point? 6 A. No. 7 Q. Tell me now when you first see the choke. 8 A. There. 9 Q. So the first that he sees the choke on the 10 video is 1 minute 23 seconds. 11 And how many vehicles are coming behind you 12 at this point? 13 A. At this point, there's three, if you count 14 the one off in the distance, the one with the 15 headlight. 16 Q. So three vehicles coming behind you with 17 their lights on; correct? 18 A. Correct. 19 Q. Do you remember their lights shining in 20 your mirror at all? 21 A. Maybe one set. Not three. But that would 22 be a complete guess. 23 MR. MCNUTT: I have no further 24 questions at this time. 25 MR. SAYRE: He's going to ask you some	1 chokehold when you saw the other officers? 2 A. He had not begun the chokehold, I believe. 3 Q. Now, when you saw the other officers -- and 4 Mr. McNutt just went through your distances -- how 5 far away were you from the action that was going on? 6 A. Well, according to Mr. McNutt, over 92 7 feet. 8 Q. Okay. And did you -- what was your 9 perception as to what the other three officers were 10 doing? 11 A. They appeared to be trying to restrain 12 Mr. Farmer. 13 Q. Were they hands-on with Mr. Farmer? Were 14 they touching him? 15 A. Yeah, they appeared to be, yes. 16 Q. Okay. Where were they located with respect 17 to his body? Were they scattered around his body in 18 the same location? 19 A. They were clustered around him. 20 Q. And they appeared to be doing what? 21 A. Trying to restrain him. Some of them were 22 completely standing with their hands involved, other 23 ones seem to be applying some knees. Not -- not 24 striking, but pushing down with pressure. 25 Q. Okay. So, but they were all hands-on with
Page 71	Page 73
1 questions now. And I just have a few more. 2 MR. ANDERSON: Are you guys ready for 3 me? 4 MR. SAYRE: Yeah. 5 MR. ANDERSON: Okay. Can you hear me 6 okay? 7 MR. SAYRE: Yes. 8 9 EXAMINATION 10 BY MR. ANDERSON: 11 Q. Mr. Pierce, I just want to draw your 12 attention to the three officers that you saw later, 13 not Officer Lopera. Do you understand that? 14 A. Correct. Yes, I do. 15 Q. Okay. When did you become aware of their 16 arrival? When did you see other officers? 17 A. If I understand your question, when during 18 the events did I notice they were there? 19 Q. Yeah. When did you see other police 20 officers, not Officer Lopera? 21 A. After I had started to drive away from 22 initially being stopped next to the -- next to 23 Officer Lopera and Mr. Farmer. 24 Q. Okay. Had Officer Lopera begun to use a 25 chokehold yet, or had he still not begun the	1 Mr. Farmer; is that fair? 2 A. Definitely, majority of them, yes. 3 Q. And did it appear that they were trying to 4 handcuff him? 5 A. I wouldn't be able to tell if they were 6 trying to handcuff him, you know. Because officers 7 were involved and a man is struggling, I assume that 8 they were trying to restrain him. 9 Q. Did you see any of the three officers kick 10 or punch Mr. Farmer? 11 A. Other than the initial strikes, which might 12 have been prior -- other than the initial strikes 13 that I believed were Mr. Lopera, no. 14 Q. Okay. Were you close enough and able to 15 hear any commands or statements made by the other 16 three officers? 17 A. By the other three, I do not remember 18 hearing commands or statements from them. 19 Q. Okay. Before you lost vision on the 20 activity, what's the last thing you remember seeing 21 with respect to the officers? 22 A. I remember seeing those officers clustered 23 around and Mr. Farmer on the ground being choked, or 24 trying to be choked, I guess. 25 Q. Were any of those officers near

JONATHAN JODIE PIERCE

April 26, 2018

<p>1 Mr. Farmer's head area?</p> <p>2 A. I'm not sure. They were clustered around, 3 and moving.</p> <p>4 Q. Did it appear to you that Mr. Farmer was 5 still resisting?</p> <p>6 A. At that point, I believe so.</p> <p>7 Q. So you believe it appeared to you that he 8 might still be resisting?</p> <p>9 A. At that point, yes. I did not know that</p> <p>10 Mr. Farmer died until I was contacted by Officer 11 Penny, I believe.</p> <p>12 Q. Did you ever see -- was there ever a time 13 when you believed that Mr. Farmer was unconscious?</p> <p>14 A. No. I remember thinking he would go 15 unconscious, but I don't know --</p> <p>16 Q. The entire time that you had a visual, he 17 appeared to be resisting?</p> <p>18 A. I thought he was, yes.</p> <p>19 MR. ANDERSON: Okay. I have no 20 further questions.</p> <p>21 MR. SAYRE: Okay. I have a few.</p> <p>22</p> <p>23 FURTHER EXAMINATION</p> <p>24 BY MR. SAYRE:</p> <p>25 Q. Would you take a look at the arrest report,</p>	Page 74	<p>1 A. Security not being the police officers?</p> <p>2 Q. Right.</p> <p>3 A. I remember security guards, or someone, 4 hotel staff, involved, and it looked like maybe one 5 was involved in the action. If he was grabbing his 6 arms, I'm not sure.</p> <p>7 Q. Next page. 2:47: "Officer Lopera told 8 Farmer, 'Get on your stomach.' Farmer was observed 9 lying on his stomach."</p> <p>10 Did you see that?</p> <p>11 A. I do not remember observing Mr. Farmer on 12 his stomach.</p> <p>13 Q. 2:50: "Officer Lopera told Farmer, 'Get on 14 your stomach.' Farmer was observed lying on his 15 stomach."</p> <p>16 Now, you didn't see that, but you heard 17 Lopera telling him to get on his stomach; right?</p> <p>18 MR. MCNUTT: Objection. Form.</p> <p>19 THE WITNESS: I'm not sure I heard 20 Officer Lopera saying that.</p> <p>21 MR. SAYRE: Okay. Could we use the 22 tape?</p> <p>23 BY MR. SAYRE:</p> <p>24 Q. I want you to listen to the tape and see if 25 you hear Officer Lopera telling Mr. Farmer to "Get</p>	Page 76
<p>1 please.</p> <p>2 A. Yes.</p> <p>3 Q. Take a look at page 4 of 8, down at the 4 bottom right-hand corner.</p> <p>5 A. Thank you. 4 of 8.</p> <p>6 Q. Right. Now, take a look at 2:40. 2 7 minutes and 40 seconds. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. "Officer Lopera told Farmer, 'Get on your 10 stomach.' Farmer was observed lying on his 11 stomach."</p> <p>12 This is what one of the investigator 13 officers wrote down after he looked at the film.</p> <p>14 Did you see that occur; that is, Farmer 15 lying on his stomach?</p> <p>16 A. I don't remember that.</p> <p>17 Q. 2:42, which is two seconds later:</p> <p>18 "Officer Lopera told Farmer, "Get on your 19 stomach. Farmer was observed lying on his stomach 20 again." Or still.</p> <p>21 Do you see that?</p> <p>22 A. Yeah, I see that.</p> <p>23 Q. 2:45: "Security was observed grabbing 24 Farmer's arms."</p> <p>25 Did you see security grabbing his arms?</p>	Page 75	<p>1 on your stomach."</p> <p>2 A. Yes.</p> <p>3 Q. And a little while later, I want you to 4 hear whether or not one of the officers says, "Put 5 your fucking hands behind your back," very loudly.</p> <p>6 A. Yes.</p> <p>7 MR. SAYRE: You're waiting for it to 8 warm up?</p> <p>9 MR. MCNUTT: It's a converted. I've 10 had problems with it because it's a conversion on 11 Apple. And it's not reading.</p> <p>12 BY MR. SAYRE:</p> <p>13 Q. While we're waiting, let me ask you some 14 questions.</p> <p>15 Assuming for a moment that Officer Lopera 16 told Mr. Farmer, several times, "Get on your 17 stomach," okay? From 2:40, 2 minutes and 40 18 seconds, until 2 minutes and 52 seconds, is a period 19 of 12 seconds. The observations of the 20 investigating officer are that Mr. Farmer was on his 21 stomach for those 12 seconds. Would you agree that 22 that would indicate that he was complying with 23 Officer Lopera commanding to "Get on your stomach"?</p> <p>24 MR. MCNUTT: Objection. Form.</p> <p>25 THE WITNESS: I would agree. And in</p>	Page 77

JONATHAN JODIE PIERCE

April 26, 2018

Page 78	Page 80
<p>1 the video that Mr. McNutt showed earlier, I remember 2 you can clearly hear Mr. Farmer saying "I will," in 3 response to something Mr. Officer Lopera was saying. 4 BY MR. SAYRE: 5 Q. Now, let me ask you to assume that you can 6 hear on the tape -- well, actually, I can do it on 7 my iPhone. 8 A. Am I allowed to look at this? 9 Q. Sure. 10 A. Because 9:34, does not look good, from 11 Officer Lopera. 12 Q. This is a briefing by Undersheriff Kevin 13 McMehill -- 14 (Whereupon, Mr. Sayre played a video 15 on his iPhone.) 16 BY MR. SAYRE: 17 Q. Well, we didn't get to it. But let me ask 18 you this. Since Counsel isn't able to, apparently, 19 able to get his machine working now, unfortunately. 20 You'll be able to look at -- 21 (Whereupon, video resumed playing on 22 iPhone.) 23 BY MR. SAYRE: 24 Q. You heard that statement. All right. Take 25 a look at the -- if you'll look at, and you'll see</p>	<p>1 A. Correct. 2 Q. And you could see that clearly? 3 A. Correct. 4 Q. Were all of them within such a close 5 proximity to Officer Lopera that they could have 6 reached over and pulled his hands away from 7 Mr. Farmer's throat? 8 A. Yes. 9 MR. ANDERSON: Objection. Form. 10 BY MR. SAYRE: 11 Q. Now, I'll just tell you that the rear naked 12 chokehold is prohibited by the Las Vegas 13 Metropolitan Police Department. 14 And I'll tell you, further, that each of 15 these officers had an independent duty to intervene 16 if a rear naked choke was being applied. 17 During the time from the time that you 18 could see the hold applied until it went out of the 19 distance, did you ever see any of those three 20 officers reach over and pull Officer Lopera's hands 21 away from Mr. Farmer's neck? 22 A. No. 23 Q. Now, you said, on page 1707 -- I'm back to 24 your interview. Mr. McNutt left off this portion of 25 your answer.</p>
Page 79	Page 81
<p>1 at the 2:58, Officer Lopera appeared to put Farmer 2 in some type of a neck restraint. 3 This is from the observations of the 4 investigating officers. 5 Before that, for about 12 seconds, from 6 2:40 to 2:52, Officer Lopera is telling Farmer, "Get 7 on your stomach." And, each time, the investigating 8 officer says, "Farmer was observed lying on his 9 stomach." He was still getting tased. 10 Then, at 2:58: "Officer Lopera appeared to 11 put Farmer in some type of a neck restraint." 12 Three seconds later: "Sergeant Crumrine 13 arrives and stated, "Put your fucking hands behind 14 your back." 15 He was the superior to Officer Lopera at 16 the scene. 17 So, from that point on you saw Lopera 18 putting on a neck restraint, for the time that you 19 could see it? 20 A. Correct. 21 Q. -- until -- all right. 22 Now, during that time, there were three 23 officers, including Sergeant Crumrine, that were 24 clustered about Mr. Farmer, by your observation; 25 right?</p>	<p>1 "Um, if that was the case" -- 2 And this is down at the bottom, next to the 3 last answer. 4 "I know I -- I remember thinking that night 5 this is -- this is -- that is too -- this is too 6 long. You can't choke someone that long." 7 That was your observation; right? 8 A. Correct. 9 Q. Now, if you notice, at 3:25, it says 10 Officer Tran -- actually, it turns out that was 11 Officer Crumrine. It says: 12 "Officer Tran arrived and said, 'Let him go 13 Ken.'" 14 Do you see that? 15 A. I see that. 16 Q. And, "Officer Lopera asked, 'Are you sure?'" 17 Officer Tran replied, "Yeah." 18 And from that point, at 3 minutes and 26 19 seconds, that hold was left on, until 4 minutes and 20 11 seconds. 21 A. I see that. 22 Q. From your experience, a rear naked choke, 23 if it was a rear naked choke as described by Officer 24 Lopera, a rear naked choke should have put him 25 unconscious during that period of time?</p>

JONATHAN JODIE PIERCE

April 26, 2018

1 A. Yes. 2 MR. MCNUTT: Objection. Form. 3 BY MR. SAYRE: 4 Q. In fact, if a rear naked choke is kept on 5 too long, it can kill somebody? 6 MR. MCNUTT: Objection. Form. 7 THE WITNESS: Yes. 8 BY MR. SAYRE: 9 Q. Do you know that Officer Lopera was 10 recommended by the police department to be charged 11 with manslaughter? 12 MR. MCNUTT: Objection. Form. 13 BY MR. SAYRE: 14 Q. Did you know that? 15 A. I was not aware of that. I figured it was 16 serious. 17 Q. And Officer Lopera is currently being 18 charged with manslaughter. 19 A. Okay. 20 Q. Did you know that Officer Lopera told 21 approximately seven different times to various 22 officers that he had rear naked choked Mr. Farmer? 23 MR. MCNUTT: Objection. Form. 24 THE WITNESS: Until I read Exhibit 1, 25 I was not aware of that.	Page 82	Page 84 1 finish reviewing it, and made any corrections or 2 not, sign it under penalty of perjury, put it into 3 the envelope that she'll supply, which will be 4 already stamped and already to go, and just put it 5 in the mail. 6 THE WITNESS: Okay. 7 MR. SAYRE: And, if not signed, 8 corrections provided, a certified copy may be used 9 as if it were the original for all purposes. I will 10 maintain the original until the time of trial and 11 will produce it at the time of trial. 12 Is that okay? 13 MR. MCNUTT: It's the same stipulation 14 you and Craig already entered into, so I presumed 15 you were talking to Craig again. 16 MR. SAYRE: Craig, is that all right 17 with you? 18 MR. ANDERSON: Fine with me. 19 (Deposition concluded at 3:50 p.m.) 20 21 22 23 24 25
1 BY MR. SAYRE: 2 Q. Now you've seen that in print? 3 A. Yes, I've seen that. "Rear nakeded his 4 ass." 5 Q. That's what he said. 6 I have nothing further. 7 MR. MCNUTT: Craig? 8 MR. ANDERSON: I have nothing further. 9 MR. MCNUTT: Thank you for your time. 10 MR. SAYRE: Thank you, sir. 11 THE WITNESS: Thank you. 12 (Discussion off the record.) 13 MR. ANDERSON: This is Craig. I'll 14 take a copy. I want to order a copy. 15 MR. SAYRE: I'll offer to stipulate 16 that the court reporter be relieved of her statutory 17 obligation, which may not be true in Arizona, as far 18 as I know, but that the deposition will be prepared 19 and sent directly to Mr. Pierce. 20 If he'll kindly provide her with an 21 address. 22 She'll send it to you in about two weeks. 23 And at that time you will be given 30 days to read 24 and review it and, if you wish, make any changes or 25 corrections, if you want to. And then after you	Page 83	Page 85 1 2 I have read the foregoing deposition 3 transcript and by signing hereafter, approve same. 4 Dated _____. 5 6 7 8 9 10 11 12 JONATHAN JODIE PIERCE 13 14 15 16 17 18 19 20 21 22 23 24 25